

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6819 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

=====

1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

PATHAN MIRSABBHAI BAKARBHAI

Versus

MALEK JAFARBHAI PUNJABHAI

Appearance:

MR AJ PATEL for Petitioners

MR MC SHAH for Respondent No. 1, 2, 3, 4

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 13/08/1999

ORAL JUDGEMENT

In this petition under Article 227 of the Constitution, the petitioners have challenged the order passed by the Secretary (Appeals), Revenue Department, State Government in a revision under Rule 108 of the Bombay Land Revenue Code confirming the order dated 1.10.1983 of the Collector and in turn confirming the order dated 31.12.1982 of the Deputy Collector setting aside mutation entry No. 3790 dated 28.3.1967. Various

contentions are urged in support of the petition. However, the settled legal position is enunciated by the Hon'ble Supreme Court in Sankalchan Jaychandbhai Patel Vs. Vithalbhai Jaychandbhai Patel, AIR (1996) 6 SCC 433 that revenue entries are made for fiscal purpose and if there is a dispute between the private parties, such dispute is to be adjudicated by an appropriate forum like Civil Court.

2. In above view of the matter, it is not necessary to go into the merits of the contentions urged on behalf of the petitioners. The petition is, therefore, rejected only on the aforesaid ground.

3. At this stage, Mr Patel, learned Counsel for the petitioners submits that while admitting this petition on 12.12.1985, this Court had granted interim injunction requiring the parties to maintain status quo. Hence, the same may be continued for some time to enable the petitioners to institute proceedings before the Civil Court.

4. In the facts and circumstances of the case, the interim relief granted earlier by this Court requiring the parties to maintain status quo shall continue for a period of one month from today i.e. till 15th September, 1999.

5. Subject to the aforesaid direction, the petition is disposed of. Rule is discharged with no order as to costs.

6. It is clarified that this Court has not gone into the merits of the rival contentions and, therefore the concerned forum before which the petitioners institute proceedings will be at liberty to decide the matter in accordance with law without being influenced by the observations made in the orders under challenge.

August 13, 1999 (M.S. Shah, J.)

sundar/-